



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

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August 8, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE ON THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

Executive Summary

This memorandum contains a report on the following:

- Senator Dianne Feinstein's August 2, 2012 letter to Attorney General Eric Holder, expressing opposition to the Department of Justice's new policy to no longer reimburse the cost of incarcerating foreign-born inmates of unknown immigration status under the State Criminal Alien Assistance Program (SCAAP). The County opposes this new policy.
- Other Members of Congress from both parties also have voiced their opposition to this new SCAAP reimbursement policy.

Senator Feinstein's Letter Opposing New SCAAP Reimbursement Policy

On August 2, 2013, Senator Feinstein sent the attached letter to Attorney General Eric Holder, opposing the Department of Justice's (DOJ) new policy to discontinue SCAAP reimbursement of the cost of incarcerating foreign-born inmates of unknown immigration status, which is consistent with the County's opposition to this policy. Until this policy change was announced in the Federal Fiscal Year (FFY) 2012 SCAAP application guidelines, DOJ always had provided partial reimbursement for the cost of

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incarcerating foreign-born inmates whose immigration status was unknown, based on a match of foreign-born inmate records against the Department of Homeland Security's immigration database. Many, if not most, inmates who meet the statutory definition of an "undocumented criminal alien" eligible for SCAAP reimbursement are not in this database because they entered the country illegally without inspection and who never before were determined to be deportable or excludable will not be in this database.

Other Congressional Opposition to New SCAAP Reimbursement Policy

Numerous Members of Congress have voiced their opposition to DOJ's new SCAAP policy to no longer reimburse costs of incarcerating inmates of unknown immigration status. For example, 66 Members of the House of Representatives previously sent a jointly signed bipartisan letter, and Senator Boxer also has sent a letter to Attorney General Holder, expressing their concerns. In addition, during House floor debate on the FFY 2013 Homeland Security Appropriations Bill, Representative Frank Wolf (R-VA), who chairs the House Commerce-Justice-Science Appropriations Subcommittee, which has jurisdiction over DOJ and SCAAP, stated that he would work with Homeland Security Appropriations Subcommittee Chair Robert Aderholt (R-AL) and the Departments of Justice and Homeland Security to "help ensure that the SCAAP reimbursement methodology is equitable for all types of jurisdictions and maximizes the verification of status for individual aliens."

We will continue to keep you advised.

WTF:RA
MR:MT:ma

Attachment

c: All Department Heads
Legislative Strategist



United States Senate
WASHINGTON, DC 20510-0504
<http://feinstein.senate.gov>

ATTACHMENT

SELECT COMMITTEE ON INTELLIGENCE - CHAIRMAN
COMMITTEE ON APPROPRIATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND ADMINISTRATION

August 2, 2012

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Attorney General Holder:

I am writing to express my strong opposition to the decision by the Department of Justice to discontinue State Criminal Alien Assistance Program (SCAAP) reimbursement payments for inmates whose immigration status is unknown to the federal government. I respectfully urge you to rescind the new policy, which will place a significant financial strain on state and local governments – particularly in my home state of California.

The burden of incarcerating criminal aliens in our country already falls largely to state and local governments, and it weighs heavily on them, especially during this time of economic uncertainty. In California, county governments spend millions of dollars each year to cover the costs of providing housing, meals, medical care and translation services for undocumented inmates. A survey by the California State Association of Counties found that 34 counties spent a total of \$362 million in Fiscal Year 2010 to detain undocumented immigrants.

In 1994, Congress recognized that states and localities should not bear the burden of a broken federal immigration system and created SCAAP to help offset these costs. Until now, the Justice Department has provided partial SCAAP reimbursements to state and local governments for incarcerating individuals whose immigration status is unknown to the federal government. Under the new reimbursement policy, however, state and local governments will not be reimbursed whatsoever for incarcerating these individuals.

The new policy will lead to a drastic reduction in the amount of SCAAP payments that local governments receive each year. According to the California State Association of Counties, if this new reimbursement policy had been in place in 2010, California's counties

would have seen a fifty percent reduction in their SCAAP awards, from \$40.8 million to \$21.8 million.

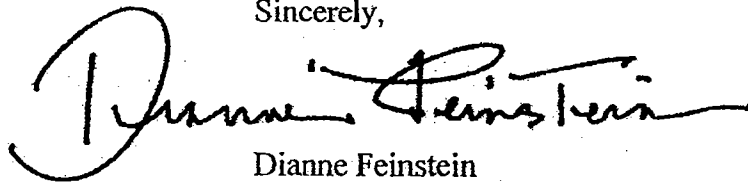
This policy change will disproportionately harm local governments in California. According to the U.S. Department of Homeland Security (DHS), Office of Immigration Statistics, 6.8 percent – or 2.6 million – of California residents are undocumented immigrants, the majority of which entered the country without inspection by illegally crossing the border. Unless these illegal border crossers have subsequently come into contact with immigration officials, they are not listed in the federal immigration database and are therefore considered to have “unknown” immigration status. This means that there could be as many as a million undocumented aliens in California whose incarceration in California jails would no longer be reimbursed by the Justice Department under the new SCAAP policy.

It seems unfair to penalize local governments for what is really the failure of the federal government to secure the Nation’s borders and track those who are in the United States illegally. Additionally, when the federal government does not reimburse states and localities for the costs of incarcerating criminal aliens, critical public safety services suffer. In fact, the current underfunding of SCAAP has already forced localities to engage in the early release of inmates with misdemeanors as a cost-saving measure.

I believe that the Justice Department’s recent change in the reimbursement formula undermines the Congressional intent of SCAAP. Further, I am troubled that this policy was announced by DOJ without any notice or input from relevant stakeholders. It is my hope that you will work to immediately rescind the new reimbursement policy or, at the very least, establish a process that would allow county governments to work with federal immigration officials to determine the status of criminal aliens whose immigration status is unknown. If you are unwilling to do so, I plan to work with my colleagues in Congress to block the implementation of the new policy.

Thank you for your time and attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dianne Feinstein", with a stylized, flowing script.

Dianne Feinstein
United States Senator

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